



**MINUTES OF MEETING OF THE CITY  
COUNCIL OF THE CITY OF HAYWARD**  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, April 16, 2002, 8:00 p.m.

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**MEETING**

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Rodriquez.

**ROLL CALL**

Present: COUNCIL MEMBERS Jimenez, Hilson,  
Rodriquez, Ward, Dowling, Henson  
MAYOR Cooper  
Absent: None

**PRESENTATION: Pride in Hayward Award**

The following Harder/Tennyson Area residents were honored with the Pride in Hayward Award for April: Harman and Linda Carr, Anthony and Elizabeth Malin, Tran Tung and Liana Nguyen, Vijay, Salita and Lalesh Muni, and Eusebio and Wilfrida Melero.

**Environmental Achievement Awards**

Mayor Cooper discussed the annual Environmental Achievement Awards recognitions. She noted that the awards honor individuals and multi-family complexes for their commitment to preserving the environment and enhancing their communities. She commented that the Awards reflect the dedication of the business community, the residents and schools to conserving our natural resources and creating a healthier environment. She then introduced and turned the proceedings over to Council Member Hilson, Chair of the Council's Environment Committee.

Council Member Hilson commented about the quality of the applications. He thanked Waste Management of Alameda County for donating the business award plaques, and a number of restaurants and individuals in the area who contributed to the gift certificates and coordinated this years Awards presentation. He, Mayor Cooper and Ed Mullins from the Chamber of Commerce presented the awards to the recipients.

Mayor Cooper called for a brief recess to allow anyone who wanted, to leave.

**PUBLIC COMMENTS**

Jim Drake, Hayward, discussed the City Manager's Weekly report. He noted that he had heard from staff regarding his previous complaints. He then discussed the new Power Plant.

Ron Barklow, Hayward, talked about the pump station on 2<sup>nd</sup> Street regarding the noise from the compressor and sand blasting at the water tanks. He asked if the City measured the noise level.

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Jason Moreno, Hayward, asked that grievances against the City Council and Mayor be filed with the District Attorney of Alameda County.

Henry Villalobos, Aztecs of America, said he has been talking to people about a multicultural Center. He started the organization of Aztecs in America. He believes sharing our cultures will bring peace to the communities. He suggested getting started on the center soon. He asked for further discussion with City officials.

Elmer Kriewaldt, Hayward, discussed his neighbor's parking tickets for street sweeping. He asked why only one side of the street is signed. Because these neighbors are disabled, he asked for consideration of voiding their citations.

Mayor Cooper asked staff to look into this.

Roy Gordon, Hayward, offered traffic suggestions for Hayward. He volunteered to work with the City Manager on traffic problems in the area.

Barbara Swarr, Hayward, discussed Redevelopment Law and developers. She pointed out legislation in Sacramento that would change the sales tax.

Jerry Feiger, Hayward, talked about development in the Canyon area. He discussed City options relative to a May 2 Alameda County Supervisor's Meeting.

## **CONSENT**

1. Approval of Minutes of the City Council Meeting of April 9, 2002

It was moved by Council Member Hilson, seconded by Council Member Jimenez, and unanimously carried to approve the minutes of the City Council Meeting of April 9, 2002.

## **HEARINGS**

2. Reconsideration of Council's Action on June 6, 2000 Imposing Residential Rental Inspection Fees Property Located at 25858 Tarman Avenue

Staff report submitted by Director of Community and Economic Development Ehrental, dated April 16, 2002, was filed.

Director of Community and Economic Development Ehrental gave the staff report. She noted the \$111.05 fee for this property. She discussed the Judge's ruling that directed the City to hold an Administrative Hearing on the issue.

Council Member Henson commented on the Judge's decision to remand the matter back to Council. He was told Council was being asked to reconsider the lien.



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City Attorney O'Toole commented that the Court asked for an administrative review in a more formal manner. Staff identified each of the code violations at this hearing and the owner did not bring in any justification for the violations.

Council Member Jimenez asked about the recommendation coming from both the City Attorney and Community and Economic Development Director.

Mayor Cooper opened the public hearing at 9:08 p.m.

Dan Tankersley said he and Mr. Gable were representing Mr. Cline. He maintained that the staff did not provide for an administrative hearing. They objected to a hearing with the Building Official. He commented that the City's procedures on due process are not being complied with.

Richard Gable noted that this issue is not about money. It is about property rights and due process. He said they would appreciate the City Council reading the record and the Judge's comments.

Mr. O'Toole commented that the meeting on February 25 was to allow the property owner to present his case to the City and defend the violations.

Council Member Ward asked whether there was any information that there is evidence that the violations did not occur.

Council Member Henson asked City Attorney O'Toole to comment on whether the hearing constituted a review process.

City Attorney O'Toole commented that if the gentlemen can convince the Council that the violations do not exist, they should reconsider the Residential Inspection Fees.

Council Member Rodriguez said the appeal process is a concern. We get these in piles of paperwork. She commented that the City Council's concern is that this affects the neighborhood. She noted that, perhaps it might be a cause they feel strongly about, however, the Council read the material carefully. She added that the problem is basic; the house does need taking care of.

Mr. Tankersley responded that their position was that the City Council hold an administrative review.

Council Member Jimenez commented that the City Attorney did a good job.

Council Member Hilson said the Court ordered an administrative review. He then asked about the Judge's statement.

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City Attorney O'Toole added that the Court was concerned with due process. We believe we have done that. Following this hearing the process is to return to the Judge with all the information of what the City has done. The purpose of the hearing was to delineate the code sections and violation.

When asked about the property owner, Mr. Cline, was, the City Council was told that Mr. Cline has cancer and is still trying to recover.

Mayor Cooper closed the public hearing at 9:26 p.m.

Council Member Henson said they were given a fair hearing and an opportunity to show their position.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 02-041, "Resolution Confirming City Council Action on June 6, 2000, Authorizing Imposition of Lien on Property Located at 25353 Tarman Avenue for Unpaid Residential Rental Inspection Fees for Calendar Year 1999"

### 3. Oliver West Residential Development

#### A. Request for Approval of an Assignment Agreement to Standard Pacific and Acacia Credit Fund 7, LLC (Subdividers/Owners) South of 92 - Oliver West

Staff report submitted by Planning Manager Anderly, dated April 16, 2002, was filed.

Deputy Director of Public Works Bauman discussed the assignment agreement.

Council Member Henson asked for more details regarding the "rolling option." City Manager Armas pointed out the City's limited experience with this. He commented that they are looking at the parties for assurance that they are responsible. He said at the end of the process, and underlying it, is an obligation that Duc housing will be responsible for assuring that it is all carried out.

Mayor Cooper expressed concern about Standard Pacific's follow-through. She commented that they have fulfilled their agreements. She asked what assurance they can get from Standard Pacific as to what they say they will do, they would, in fact, do.

City Manager Armas responded that there are areas that Standard Pacific would acknowledge there are problems. He suggested Council members ask them whether they are committed to carrying out what they promised residents.



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Council Member Rodriquez asked whether there were other bids for this development. She was told the City is not a party to this agreement. He responded that the City's only responsibility is to determine the financial viability of the successor entity.

Council Member Hilson said he shared the concerns regarding Standard Pacific. He indicated that he has been sorely disappointed in their performance. He noted that there are far too many complaints from the homebuyers and said he is not convinced that Standard Pacific will build a quality project. He emphasized that the City will be monitoring the project and if there is a repeat of previous actions, City staff will pursue with all aggressive diligence. He added that the City Council would not be happy hearing that people are having problems. He noted, for the record, that the Council would also react much more strongly than in the past. He said he expects staff to be far more diligent in reviewing all aspects of this project.

Council Member Dowling agreed with the previous speakers and noted that Twin Bridges is still not finalized.

City Manager Armas commented that Clearbrook clearly represented a challenge and there were some things that could have been better. He said the Twin Bridges development worked reasonably well.

Council Member Jimenez quoted the last paragraph of the staff report regarding the financials of both entities.

In response to Council Member Ward's question regarding Acacia, City Manager Armas indicated that Acacia is principally a finance arm. Standard Pacific will build the entire project. Acacia is merely a holding arm.

Mayor Cooper opened the public hearing at 9:44 p.m.

Patrick Sullivan, Hayward, one of the homeowners in the Clearbrook complex, said they were requesting a delay in action because of ongoing negotiations, since August 1999, with Standard Pacific to correct some problems. Rather than expecting good over-sight on the Oliver West project, he suggested delaying approval while the developer resolves these problems.

Council Member Ward asked how long of a delay they were asking.

Mr. Sullivan suggested that until Standard Pacific responds and does something about the problems in this neighborhood.

Bing Magpayo said has no objection to this proposal. However, he proposed two contingencies: final resolution on the irrigation and landscaping at Clearbrook.

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Jim Bray, another resident of Clearbrook, said the homeowners are still trying to get Standard Pacific to fix the problems. He said they were asking for delay to go over the problems. He commented that every other development in the hills area has underground water systems. He suggested there be a contingency for solution vs. penalty clause.

Council Member Hilson asked the City Attorney whether Council would have the ability to delay or condition approval of the actions contingent on satisfaction of a previous property.

City Attorney O'Toole said it would not be advisable to tie the two projects together since each should stand on its own. He then commented that it might form the basis for a "No" vote.

City Manager Armas added bonds are being withheld on these projects, which indicates that there is financial leverage.

Mike Johnson, who said he, too, was a neighbor of those others. He reiterated his concern of property. He commented that the common area is not to be desired.

Steve Delva, Standard Pacific, noted that one of the mission statements for Standard Pacific is to do the right thing. He agreed that with regard to the landscaping in the common areas that they have not done the right thing. He and the landscaping team have had a chance to walk through the area. He discussed in detail the plan they have which will bring additional standards to upgrade the area. He said they hope to have a long future in Hayward. He said they would do the right thing irrespective of the vote on this item.

Council Member Hilson asked whether they were taking some action on all of the items. He wanted their promise that this new project would be a quality project. He was given Mr. Delva's word that it would be.

City Manager Armas suggested adding an informational item to the agenda within 60-days for Standard Pacific and the residents can speak on what has been accomplished.

Council Member Henson said he could not discuss some of the issues relative to his neighborhood. However, he referred to the report in A-3, and suggested that that kind of language implies that Oliver West and Oliver East are separate and can be used as denial of the rest of the project. He suggested that the implication is that the performance on one can be used as the basis for denial of the other part of the project.

City Manager Armas responded that regardless of anything, the Sports Complex would be carried out. He also emphasized that Duc and Standard Pacific are not one entity.

Council Member Ward asked how the City managed to approve an irrigation system different from other developments in the area.



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City Manager Armas commented that clearly the City staff could have done a better job. He noted that they have been attempting to make sure that the potential exposure for the City is minimal.

Council Member Ward then added that it is important to see the concern about developer quality and performance as a lesson.

Council Member Dowling said he appreciated the City Manager's effort to bring this back. He would like the Twin Bridges Association to be included to air their concerns as well.

Mayor Cooper closed the public hearing at 10:10 p.m.

Council Member Jimenez moved the item as written. Council Member Ward asked whether it might not be appropriate to make a determination on this issue. City Attorney O'Toole suggested that if members were not assured that this developer would be responsible for this project, perhaps Council might bring the item back with further information. Mr. Ward then seconded the motion.

City Manager Armas commented that the standards principally centered on financial liability.

Council Member Henson said he would reluctantly support this motion on the basis that they hear more about the problems of other developments within 60 days. He commented that he believes Standard's relationship with Homes Association is atrocious but he would not look at this performance. He said he would like the loose ends tied up. He emphasized his concern that this development be of the utmost quality. He noted again that with great reluctance he would support this motion since the financial ability is shown.

It was moved by Council Member Jimenez, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 02-042, "Resolution Authorizing the City Manager to Negotiate and Execute the Assignment and Assumption Agreement of the Mount Eden Business and Sports Park Development Agreement"

- A. Final Map Tract 7317 - Approval of Final Map, Authorize the City Manager to Execute a Subdivision Agreement; Approve the Addendum to the Environmental Impact Report, and Associated Implementation Measures - Standard Pacific Corporation of California (Subdivider)

Deputy Director of Public Works Bauman explained the report and the addendum to it. He asked Council to first approve the addendum that identified certain minor changes to the project, which

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were unknown at the time of the certification of the final EIR. This addendum addresses two changed conditions, the first was the preservation of certain small wetlands, and the second was a design change for the water buffer.

Council Member Hilson asked a number of questions regarding the mitigations for the trail and the wetlands, as well as the Army Corps of Engineers and Department of Fish and Game questions. He wondered whether these concerns were adequately answered. He was told they were. The agencies had reviewed the report and were accommodated to their satisfaction.

Council Member Rodriquez asked about pets being predators and what the control situation is going to be. She asked whether this barrier satisfied the requirements. She was told that there will be the water buffer, as well as specially designed fences with a vertical overhang as closure for the ends of the fences. The bridge has a gate and fencing arrangement to keep pets away from the wildlife area.

Council Member Rodriquez explained that this is a hard decision on that sensitive land.

Council Member Henson discussed netting as a safeguard. He then asked about the proximity from the sensitive area to houses. Deputy Director of Public Works Bauman explained that the buffer would be a minimum of 100 feet, with 50-feet of it water as well as a 10-foot street. He then asked about the responsibility of the wetlands and buffer. He was told that one of the agencies has asked for a bond to guarantee the improvement process. He also noted that it is anticipated that the process will take five-years.

Mayor Cooper opened the public hearing at 10:42 p.m.

Jim Bray said he hoped Standard Pacific and the homeowners would get together to solve their problems. He showed photos of various homes on the hillside. He commented that the company does not want to assume liability.

Howard Cogswell said he was familiar with the property. Hayward Area Shoreline Citizens Advisory Committee (HASCAC) said there are unanswered questions in the environmental documents. He said they have not seen the number of wetlands until this meeting. He said they have doubts about the fence and the water buffer. He asked for Council to defer a vote of action until more people have time to study the documents and get answers to their questions. He said there is no evidence of soil coring on the property.

Ron Barklow asked what would happen and what is the plan in case of a fire or a train wreck, relative to the railroad tracks. He commented that there is a State law regarding the closeness of railroads to houses. He asked about the cost to the homeowners association per month to continue maintenance of the buffer.

Janice Delfino, as co-chair of the HASPA, asked the City Council not to approve the addendum, since they only received it a few days ago. She commented that HASPA should have had this document for 30 days since they are the planning agency for Hayward Shoreline.





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Viola Saima-Barklow, explained that the City of Hayward has lost acres that should have been left as open space and Bay lands. She said she does not understand why no alternatives were presented other than preserving these isolated wetlands. She said she was asking the City Council to deny approval of the addendum for now and postpone decision until a supplemental EIR can be produced so that the wetlands can be addressed environmentally.

Frank Delfino discussed the outflow to Alameda Creek. He suggested that the water buffer is a civil engineer's answer to an environmental and social problem. He said there would be ducks and rocks and dirty water. He estimated the cost to individual homeowners at \$100-\$200 a month. The document has a lot of problems, He commented about the hidden costs to the homeowners. And added that, long-term it is not going to work.

In response to Council Member Dowling's questions regarding the homeowner's assessment, Pier Donovan, Standard Pacific, said the average cost would be \$4-\$5,000 per month for the buffer since there will be 500 houses. They said they have not prepared a budget with all of the costs to the Association members. However, they anticipate the cost to be between \$100 to \$150 per month.

Mayor Cooper closed the public hearing at 11:10 p.m.

Council Member Dowling asked about informing HASPA of the information.

City Manager Armas noted that HASPA is a planning body rather than a land-use decision-making body. He added that the challenge was, rather than fill the wetlands, let us improve them.

Council Member Dowling suggested staff make a concerted effort to keep the public informed.

Mayor Cooper proposed that the water buffer would not work, and suggested there would be problems with evaporation, mosquitoes, etc.

Deputy Director of Public Works Bauman said he is particularly concerned for Public Works since they will have to maintain the buffer. He described the tidal flow proposal. He commented about the review by other experts. He noted that re-circulation has aeration and plant filters. There will not be leakage, can be maintained and function as a buffer. He noted that fencing and the buffers surround the property. Old Alameda Creek and the Cargill Ditch, the ends, will require fencing.

Council Member Jimenez commented on the monthly charge at Mesa Verde as \$220 for Homeowner fees.

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City Manager Armas noted that the buffer was discussed in great detail, since it must be demonstrated to work for 3 years before the City takes responsibility. He commented that they might have to make revisions during that period of time and before the City takes over.

It was moved by Council Member Jimenez, seconded by Council Member Ward, and carried by the following roll call vote to approve the following resolution:

AYES: Council Members Jimenez, Hilson, Ward, Henson  
MAYOR Cooper  
NOES: Council Member Rodriquez, Dowling  
ABSENT: None  
ABSTAINED: None

Resolution 02-043, "Resolution Approving Addendum to Environmental Impact Report and Approving Final Map for Tract 7317 and Authorizing the City Manager to Execute a Subdivision Agreement and Accepting Certain Streets into the City Street System"

**B. Request to Establish a Landscaping and Lighting District and a Buffer Maintenance District - Standard Pacific Corporation of California (Subdivider)**

Staff report submitted by Planning Manager Anderly, dated April 16, 2002, was filed.

Deputy Director of Public Works Bauman described the item as establishing two districts, the Landscape and Lighting District, and the Buffer Maintenance District.

Council Member Dowling asked about the requirement for mailboxes on the curb and the vandalism to them. He asked for further information regarding the requirement of having them on the curb.

Council Member Hilson asked whether the money given to HARD is used only on these parks and how is that monitored.

City Manager Armas said there would be annual reports presented to the Council at which time they will have the opportunity to review them.

Director of Public Works Butler said the standards would have to be met before approval is determined.

Council Member Henson asked whether at any point in the past, the costs of the Landscape and Lighting had been passed on to the developer.



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Deputy Director of Public Works Bauman pointed to several examples of where the Maintenance District does not actually take over the costs until the District is formally accepted.

City Manager Armas said there are times when a reserve is formally established for improvements in the early stages.

Mayor Cooper opened the public hearing at 11:25 p.m.

Mayor Cooper commented that there is a need to talk with the Post Office relative to the safety of the mail.

City Manager Armas confirmed that staff would raise the problem with the Postmaster.

Ron Barklow asked about the lighting in the area. He asked whether Fish and Game would approve the lighting plan.

Deputy Director of Public Works Bauman noted that the conditions of approval would limit the amount of glare.

Mayor Cooper closed the public hearing at 11:28 p.m.

Council Member Hilson asked about postal boxes and wondered whether this might potentially be a place where video monitoring and recording might be used.

City Manager Armas suggested that this is an issue for the homeowners association to wrestle with. He noted that there is not a lot of leverage with the Postmaster who will dictate how things are done.

Council Member Hilson added that video surveillance is a deterrent to crime. He then asked staff to come back with this information on video cameras.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and carried by the following roll call vote to approve the following resolution:

AYES:	Council Members Jimenez, Hilson, Rodriquez, Ward, Henson MAYOR Cooper
NOES:	Council Member Dowling
ABSENT:	None
ABSTAINED:	None

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Resolution 02-044, "Resolution Authorizing the Initiation of Proceedings to Establish a Landscaping and Lighting District and Maintenance District for the Oliver West Development"

4. Hayward Executive Airport Master Plan and Final Environmental Assessment/Environmental Impact Report (EA/EIR)

Staff report submitted by Airport Manager Shiner, dated April 16, 2002, was filed.

Public Works Director Butler gave the report. He described the various projects proposed under the Master Plan.

Council Member Jimenez asked if the San Lorenzo Homes Association was given a copy. He asked whether the present tenants of the Airport were pleased with the Master Plan.

Airport Manager Shiner said all the tenants are 110% in support.

Council Member Henson added that Council's Airport Committee has looked at all these issues. He mentioned the potential of the airport and the increase in operations and the potential for other uses that are missing. He then asked Airport Manager Shiner to talk about the potential out there.

Airport Manager Shiner described the appendix to the Master Plan, which details the economics of the airport. All these uses can benefit the public.

Council Member Hilson commented that for months we have heard the argument that the need for the airport is decreasing and will continue to decrease. He then asked what is the projected future of the airport.

Airport Manager Shiner explained that Hayward Executive Airport is still the largest General Aviation Airport in the area. He said we know that there will be increased use and demand on the airport. It has a value and contributes to the economy of the community. The value is based on the asset that attracts business to Hayward.

Council Member Hilson said he has heard comments based on this not being the best use for the property and land. He then discussed traffic in the area, especially the Winton/Hesperian area. He asked whether anything is projected for improvement at that corner.

City Manager Armas responded that in the longer term, this is the principal entry into the industrial area. He added that another benefit might be using Measure B money for Clawiter Road. He noted that they had also undertaken some further traffic studies from San Lorenzo to Highway 92 to make sure these projects do not impact the roads that much.



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Council Member Ward commented on the apparent positive environmental impact with the extended runway over San Lorenzo Village, since the displaced threshold will be an extension of the take-off. They can turn quicker and sooner relative to San Lorenzo.

Mayor Cooper opened the public hearing at 11:59 p.m.

Ron Barklow discussed the burrowing owls. He wondered if the two burrowing owls nesting boxes would be replaced. He was told they just decided on the location.

Howard Beckman, San Lorenzo, said that, typically with EIR's there is a long process, and then a short process to accept the Final. This reflects an attitude toward the FEIR that is significant. He discussed in detail the decibel levels.

Mayor Cooper closed the public hearing at 12:09 p.m.

It was moved by Council Member Henson, seconded by Council Member Rodriquez, and unanimously carried to introduce and adopt the following:

Resolution 02-045, "Resolution Certifying Environmental Assessment/ Program Environmental Impact Report and Adopting the Hayward Executive Airport Master Plan and Mitigation Monitoring and Reporting Program"

5. Adoption of an Ordinance Related to Zone Change Application No. 2001-0206 Concerning Property Located at 22331 Mission Boulevard

Staff report submitted by City Clerk Reyes, dated April 16, 2002, was filed.

City Manager Armas reminded members that this Ordinance was brought back on Legislative Business since it was not introduced with a unanimous vote.

Mayor Cooper opened and closed the public hearing at 11:59 p.m.

Council Member Jimenez stated that he voted no on the project at the previous meeting because he thought that the most efficient location of the clinic would be off Tennyson Road where the majority of low-income families reside. However, he decided since then that Tiburcio Vasquez is does a wonderful job no matter where they are located and based on that he would now support the adoption of the Ordinance.

It was moved by Council Member Ward, seconded by Council Member Rodriquez, and unanimously carried to adopt the following:

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Ordinance 02-03, "Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory Located on Mission Boulevard Pursuant to Zone Change Application No. 2001-0206"

## **COUNCIL REPORTS**

There were no Council reports.

Mayor Cooper adjourned the meeting at 12:12 a.m.

**APPROVED:**

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Roberta Cooper, Mayor, City of Hayward

**ATTEST:**

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Connie Macias, Deputy City Clerk, City of Hayward